

REMARKS

Claims 1-14, 16-34, 36-38, 40, 43-60, 63-64, and 66-82 are pending in the application. Claims 1-14, 16-34, 36-38, 40, 43-60, 63-64, and 66-82 have been amended. Further, claims 15, 35, 39, 41-42, 61-62, and 65 have been cancelled, and claims 44-59 have been withdrawn pursuant to a restriction requirement. No new matter has been introduced by the amendment.

Objection Under 35 U.S.C. § 132

The amendment filed September 4, 2003, has been objected to for introducing new matter into the disclosure. In particular, the objection relates to the applicants previous amendment to the specification on page 7 in the paragraph beginning at line 17. This paragraph sets forth the applicants' definition of the phrase "maintaining individual product identity." The applicants had previously removed the term "visually," and inserted the phrase "using attributes of color, texture, or organoleptic or other differences." In response to the objection, the applicants have reinserted the term "visually" and deleted the definition appearing at the end of the paragraph.

Rejection Under 35 U.S.C. § 112, first paragraph

Claims 1-14, 16-34, 32-38, 40, 43, 60, 63-64, 66-82 have been rejected in view of the specification's failure to describe peanut butter as a gel food product. Further, during an Examiner Interview on April 13, 2004, with the applicants' former patent counsel, Michael P. Mazza, the Examiner asserted further rejections and objections as set forth in the accompanying Substance of Interview.

In another Examiner Interview on September 7, 2004 with the applicants' undersigned attorney, the Examiner set forth numerous objections to the form of the pending claims, as described in the accompanying Substance of Interview for the September 7 interview. The Examiner asserted that the pending claims were indefinite for failure to specify at what point in the process sugar syrup is added. The Examiner also asserted that several process steps were improper or vaguely

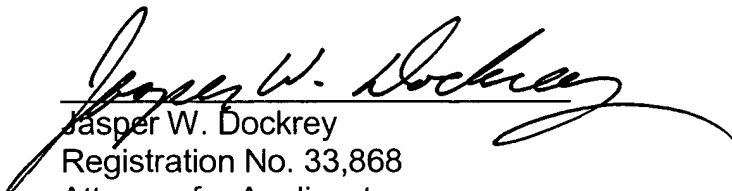
defined and were not sufficiently interrelated to the overall process recited by the claims.

In response to the issues raised by the Examiner in the Office Action dated March 11, 2004 and in the interviews of April 13 and September 7, 2004, the applicants have amended their pending claims in order to clarify the recited subject matter. In particular, food items and food portions have been replaced by the phrase "nut butter and jelly" where appropriate. Additional changes in claim language have been made to maintain consistency with the positive recitation of nut butter and jelly. Additionally, the recitation of a differential water activity of the nut butter and jelly has been introduced to the independently claims in view of the Examiner's assertion, in the Office Action dated August 1, 2003, that the specification describes certain features as important for combining the nut butter and jelly as recited in the claimed process. (August 1, 2003 Office Action, pg. 3).

The applicants have made additional changes with respect to the recited description of the flexible film, the tubular web, and the recitation of food portions and food slices where appropriate in view of the recasting of the claims to positively recite a packaging process for nut butter and jelly.

The applicants believe to have addressed all of the rejections and objections to their pending claims. Accordingly, the applicants assert that their pending claims are in condition for allowance, and such allowance is now earnestly requested.

Respectfully submitted,


Jasper W. Dockrey
Registration No. 33,868
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200